

Message Text

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TAGS: UNGA, SOCI

SUBJ: 29TH UNGA--THIRD COMMITTEE, DRAFT RESOLUTION ON TORTURE

REF: A. STATE 146302 B. HEWITT/WIGGINS TELECON SEPT 24, 1974

1. SUMMARY. USUN HAS SOUGHT AGREEMENT OF NETHERLANDS DEL TO AMEND ITS DRAFT RES ON TORTURE IN ORDER PROVIDE ROLE FOR HUMAN RIGHTS COMMISSION (HRC). DESPITE SUPPORT FOR THIS AMENDMENT FROM MARTIN ENNALS, SYG OF AMNESTY INTERNATIONAL WHO HAS PLAYED LEADING ROLE IN CAMPAIGN TO BRING TORTURE ISSUE BEFORE UN, NETHERLANDS DEL HAD NOT ACCEPTED AMENDMENT FOR FEAR THAT THROWING RES INTO POLITICIZED ARENA OF HRC WILL ENDANGER ITS SUCCESS. ENNALS HAS SUGGESTED THAT US, WHILE SUPPORTING NETHERLANDS RES, INTRODUCE SEPARATE RES REQUESTING HRC TO CONSIDER DRAWING UP DECLARATION OF PRINCIPLES WHICH MIGHT FORM BASIS OF INTERNATIONAL INSTRUMENT BANNING TORTURE. REQUEST DEPT'S GUIDANCE. END SUMMARY.

2. INTEREST IN UN ON DRAFT RES ON TORTURE, WHICH HAS BEEN MATTER OF CONSULTATIONS AMONG WEO INCLUDING US DURING LIMITED OFFICIAL USE
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SUMMER AND WHICH IS NOW BEING CIRCULATED BY NETHERLANDS, HAS BEEN HEIGHTENED BY SECRETARY'S REFERENCE TO TORTURE

IN HIS GA ADDRESS.

3. AS DEPT KNOWS, AMNESTY INTERNATIONAL (AI) HAS BEEN MOST ACTIVE NGO IN CAMPAIGN TO PROHIBIT USE OF TORTURE THROUGH UN ACTION. SYG AND DRIVING SPIRIT OF AI IS BRITISH SUBJECT MARTIN ENNALS, BORTHER OF DAVID ENNALS, JUNIOR MINISTER OF STATE FOR FOREIGN AFFAIRS WITH RESPONSIBILITY FOR UN MATTERS IN PRESENT LABOR GOVT. FIRST STEP WAS TAKEN LAST YEAR WITH INTRODUCTION BY SWEDEN INTO THIRD COMITE OF DRAFT CONTAINING TWO KEY OPERATIVE PARAS. PARA 3 REQUESTED SYG TO INFORM GA, UNDER REPORT OF THE ECOSOC, OF CONSIDERATION WHICH MAY HAVE BEEN GIVEN TO THIS QUESTION BY SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES (PDPM) OR BY COMMISSION ON HUMAN RIGHTS OR OTHER BODIES CONCERNED." PARA 4 STATED DECISION "TO EXAMINE QUESTION OF TORTURE ... IN RELATION TO DETENTION AND IMPRISONMENT AS AN ITEM AT A FUTURE SESSION OF THE GA." THIS RES ADOPTED AS A/RES/3059(XXVIII), 8 NOV 1973.

4. AS NEXT MOVE IN CAMPAIGN AGAINST TORTURE AI TOGETHER WITH NETHERLANDS, SWEDEN, UK AND OTHERS DECIDED ISSUE SHOULD BE SUBMITTED TO FIFTH UN CONGRESS ON PREVENTION OF CRIME AND TREATMENT OF OFFENDERS WHICH WILL TAKE PLACE IN TORONTO IN 1975. PURPOSE OF THIS MOVE IS TO CHARGE THE CONGRESS WITH ELABORATING EXISTING STANDARD MINIMUM RULES FOR TREATMENT OF PRISONERS TO PROVIDE SAFEGUARDS AGAINST TORTURE.

5. RES NOW BEING CIRCULATED COPY (COPY POUCHED IO/UNP HEWITT) WAS DRAFTED BY NETHERLANDS REP TON SPEEKINBRINK WITH ASSISTANCE OF UK REP DAVID BROAD, AND SPEEKINBRINK HAS ORCHESTRATED CONSULTATIONS WITHIN WEOS. WE ACCORDINGLY SOUGHT IN ACCORDANCE WITH TELEPHONE INSTRUCTIONS TO PERSUADE SPEEKINBRINK TO INCLUDE IN HIS RES BASIC IDEA OF DRAFT US RES RECEIVED FROM IO/UNP HEWITT WHICH IS TO REQUEST HRC TO CONSIDER PROBLEM AND TO DECIDE UPON WORK PLAN FOR DEVELOPING MEASURES WHICH COULD BE TAKEN TO PREVENT PRACTICE OF TORTURE AND TO REPORT TO ECOSOC UPON ITS CONSIDERATION AND ITS PLAN.

6. SPEEKINBRINK WAS UNWILLING TO INCLUDE SPECIFIC ROLE FOR LIMITED OFFICIAL USE
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HRC IN HIS DRAFT RES, ARGUING THAT BY THROWING ISSUE INTO HIGHLY POLITICIZED ARENS OF HRC WE WOULD ENDANGE WHOLE IDEA OF RES AND THAT ISSUE SHOULD BE DEALT WITH BY CONGRESS ON CRIME, WHICH HAS A HUGE AND VARIEGATED MEMBERSHIP IN ADDITION TO GOVT REPS AND WHICH IS ACCORDINGLY MUCH LESS POLITICAL. HE FURTHER ARGUED THAT NOTHING IN HIS EXISTING RES PRECLUDED HRC FROM PICKING UP ISSUE OF TORTURE ON ITS OWN INITIATIVE, AS REPORTED REF TELECON.

7. WE MET WITH ENNALS SEPT 25 SHORTLY AFTER HIS ARRIVAL IN

NY TO SEEK SUPPORT FOR HIS CAMPAIGN AGAINST TORTURE, ESPECIALLY FROM THIRD WORLD COUNTRIES. HE HAD AT THAT TIME OBTAINED SUPPORT OF COSTA RICA, ECUADOR AND ZAMBIA. ENNALS WAS RECEPTIVE TO US BELIEF THAT HRC SHOULD HAVE ROLE TO PLAY IN THIS MATTER AND WE JOINTLY WORKED UP FOLLOWING TWO POSSIBLE AMENDMENTS TO NETHERLANDS DRAFT.

A. DELETE SEMICOLON AT END OF OP PARA 2 AND ADD FOLLOWING WORDS, "... AND TO SUBMIT IT TO THE CONGRESS AND TO THE COMMISSION ON HUMAN RIGHTS AND TO THE SUB-COMMISSION FOR ELIMINATION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES."

B. ADD FOLLOWING NEW OP PARA 3.

"3. REQUESTS HRC TO CONSIDER UNDER THE ITEM "THE QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT" THE PREPARATION OF A DECLARATION OF PRINCIPLES WHICH MIGHT FORM BASIS FOR AN INTERNATIONAL INSTRUMENT."

8. ON SEPT 26 WE SPOKE WITH SPEEKINBRINK AFTER ENNALS HAD APPROACHED HIM AS PROMISED. SPEEKINBRINK HAD NO DIFFICULTY ACCEPTING FIRST AMENDMENT, STATING IT ONLY BY OVERSIGHT THAT PARA 2, AFTER REQUESTING SYG TO PREPARE ANALYTICAL SUMMARY, HAD FAILED TO SPECIFY WHAT WAS TO BE DONE WITH IT AND THAT IT WAS APPROPRIATE THAT SYG SHOULD SUBMIT IT TO HRC AND ITS SUB-COMMISSION AS WELL AS FIFTH CONGRESS. HE WAS STILL OPPOSED TO AMENDMENT TO PROVIDE SUBSTANTIVE ROLE FOR HRC, ADDING THAT THIS WAS HIS PERSONAL RATHER THAN HIS GOVERNMENT'S POSITION AT THIS STAGE.

9. ON SEPT 27 WE MET AGAIN WITH ENNALS WHO REMARKED UPON HIS LIMITED OFFICIAL USE
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OWN INABILITY TO PERSUADE SPEEKINBRINK. ENNALS REMAINS CONVINCED THAT HRC SHOULD HAVE SPECIFIED ROLE AND AFTER SOME DISCUSSION SUGGESTED US ITSELF MIGHT SUBMIT PROPOSED NEW PARA 3 TO NETHERLANDS DRAFT AS SEPARATE AND INDEPENDENT RES. THIS WOULD NOT, OF COURSE, PRECLUDE OUR FULL SUPPORT FOR NETHERLANDS DRAFT.

10. WE INFORMED ENNALS THAT WE HAD SHOWN THE SUGGESTED AMENDMENT TO MARC SCHREIBER, DIRECTOR OF UN HUMAN RIGHTS DIVISION AND THAT HE HAD SUGGESTED WE SHOULD HAVE CLEARLY IN MIND WHAT SORT OF PRINCIPLES WE WOULD LIKE TO SEE EMERGE FROM HRC. ENNALS DISAGREED. HE THOUGHT RATHER THIS RESPONSIBILITY SHOULD BE ASSIGNED TO COMITE OF EXPERTS ON THE STANDARD MINIMUM RULES, WHICH IS TO MEET IN CLEVELAND, OHIO, IN NOVEMBER, AND THAT OUR RES COULD REQUEST THEM TO TAKE ON THIS RESPONSIBILITY. HE THOUGHT SUCH A REQUEST FROM UNGA WOULD GIVE COMITE DEFINITE ROLE, WOULD FOCUS ITS DISCUSSIONS ON SPECIFIC OBJECTIVE AND WOULD THEREFORE BE WELCOMED.

(NOTE: THERE MIGHT BE PROBLEM OF TIMING IN PLENARY CONSIDERATION OF SUCH A RES, BUT EVEN PASSAGE BY THIRD COMITE WOULD ASSURE STANDARD MINIMUM RULES COMITE'S ATTENTION TO ISSUE OF TORTURE.)

11. ACTION REQUESTED. REQUEST DEPT'S REACTION TO ENNALS'S SUGGESTION THAT WE INTRODUCE SEPARATE RES TO PROVIDE ROLE FOR HRC ON ISSUE OF PROHIBITING TORTURE AND IF DEPT FAVORS IDEA, SOME SUGGESTED WORDING. SCALI

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